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ABSTRACT

The 1996 welfare reform law--the Personal Responsibility and Work Opportunity Reconciliation Act--has contradictory aspects. It gives the states greatly increased fiscal flexibility and at the same time sets extensive and elaborate new behavioral requirements. The dynamics of welfare since the passage of the Social Security Act in 1935 have been for the national government to set a framework for action by the states that on the whole has been liberal. Now, the framework of national law and the pressures it applies are conservative. The pressure is on the liberal states to terminate welfare benefits and put teeth into work and related family and school behavioral requirements. One of the surprises so far in the operation of the new law is the degree to which it has promoted "second-order devolution" from states to localities. Another surprise is a corresponding and longer standing devolution movement whereby state and local governments have assigned increased levels of responsibility to nonprofit organization groups. It is not so much "privatization" that has occurred in social policy, as "nonprofitization," although increased contracting with private providers has also been emphasized. The most crucial start-up challenge is the creation of information systems to manage state and local welfare and social programs and track recipients during and after they receive cash benefits and social services. A shared federal-state approach to create these systems is recommended. (YLB)

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ROCKEFELLER REPORTS

The Nelson A. Rockefeller Institute of Government **October 30, 1997**
State University of New York

The Newest New Federalism for Welfare:

Where Are We Now and Where Are We Headed?

Richard P. Nathan

HIGHLIGHTS

- **The 1996 welfare reform law has a *split personality*. It gives the states greatly increased fiscal flexibility at the same times that it sets extensive and elaborate new behavioral requirements.**
- **One of the surprises so far in the operation of the new law is the degree to which it has promoted "*second-order devolution*" from states to localities.**
- **It has also reinforced and heightened the emphasis on "work first," placing people in jobs as the first step in the welfare process.**
- **The most crucial start-up challenge now is the creation of information systems to manage state and local welfare and social programs and track recipients both during the time and *after* they receive cash benefits and social services.**
- **This Report recommends the development of a *shared federal-state approach* to create the information systems that more than anything else are likely to shape the future character of American social programs.**

The 1996 welfare reform act — *the Personal Responsibility and Work Opportunity Reconciliation Act* — has a schizophrenic quality. One can reasonably ask the question: Does it liberate the states or tie them down?

The law is 250 pages long. It contains detailed behavioral requirements about family life, work, and school responsibilities. At the same time, it provides block grants that give states greatly increased fiscal flexibility. We see the new law as devolutionary, but the answer to the question about its effects on federalism is by no means cut and dried.

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This *Rockefeller Report* deals with the federal-state relationship under welfare and also with what we find to be a surprising form of *"second-order devolution"* whereby states are assigning more responsibilities to local governments. In a related area, the paper examines where increased responsibilities in the welfare field have been devolved to nongovernmental providers of social services, mostly nonprofit groups, but also for-profit contractors.

In this setting in which the buck is being passed downward, important questions are raised about the role of the federal government to oversee the implementation of the 1996 welfare reform law. The final section of the paper highlights what we view as an immense new oversight challenge for the federal government in the field of social policy.

The New Law

The Personal Responsibility Act sets detailed national policy goals. It limits the time (to 5 years) that a family head can receive cash assistance under the renamed program for Temporary Assistance to Needy Families (TANF). The law sets work requirements that are ratcheted up over time, so that when fully implemented, half of all single parents and 90 percent of at least one parent in all two-parent assisted families must be working. Work activities are tightly defined in the law, which spells out twelve specific types of qualifying work activities. Also tightly defined is the way the caseload calculations are to be made for fulfilling these and other goals and requirements. The law requires unwed teen parents to live at home or in another adult-supervised setting and to be in school in order to receive benefits. There are even more detailed requirements for establishing the child-support responsibilities of noncustodial parents and collecting payments from them, including a requirement that states suspend the driver's and occupational licenses of individuals overdue in their child-support payments. For immigrants, the law is especially strict. For example, it requires sponsor-to-alien deeming, which imputes the income and resources of a sponsor to an alien who is applying for needs-based assistance. Sanctioning requirements accompany these behavioral requirements.

At the same time that the new law sets these and other personal behavioral requirements, it provides a block grant — the TANF block grant — which eliminates the entitlement to benefits under the predecessor program, Aid to Families with Dependent Children (AFDC). Each state also receives a new child care block grant, and can transfer up to 30 percent of its TANF block grant funds to the child care block grant and up to 10 percent to the pre-existing, broad-gauged social services block grant.

This summary, while not definitive, suggests the spirit, complexity, and specificity of a law that is often treated summarily in the press and in public discourse as a breakthrough in simplicity.

The 1996 Personal Responsibility Act also represents a shift in management philosophy from a regulatory or process approach to an approach that emphasizes results for states. It does this by setting detailed performance reporting requirements. The premise is that government and the public can use the resulting data to assess whether states are achieving the results the new law intends. The old "Quality Control" requirements, whereby states had to report on activities according to federally prescribed process categories, are jettisoned under the Personal Responsibility Act.

Federalism Effects

From a historical federalism perspective, the new law is especially interesting. Many observers of U.S. domestic affairs would agree that the dynamics of welfare since the passage of the Social Security Act in 1935 have been for the national government to set a framework for action by the states that on the whole has been liberal. This framework and the rules promulgated under it placed pressure on conservative states to provide benefits to the most controversial needy population — non-disabled, working-age poor parents and their children. In many cases conservative states would not have provided these benefits on their own.

But now the ideological tables are turned. The framework of national law and the pressures it applies from Washington are *conservative*. The pressure is on the liberal states to terminate welfare benefits and put teeth into work and related family and school behavioral requirements.

This turnaround should not come as a surprise. American federalism is not, and never has been, intrinsically liberal or conservative. The ideological character of centripetal forces in American federalism has varied over time. In the nineteenth century, the federal government was dominated by pro-business, anti-government social values. Not until the New Deal was there a shift to a social activist role for the federal government. Many people who have studied U.S. domestic policy have lived their whole lives under this centrist-liberal regime. There is an easy assumption that liberal activists are dominant in Washington and that more conservative, anti-government actors have their power base at the state and local levels. The conservative social policies advanced by the Republican-led 104th and 105th Congresses in Washington are important in precisely these terms.

Welfare: A Litmus-Test Program

Welfare is the litmus-test program of social policy in America. Aid to Families with Dependent Children (AFDC) has long been a vehicle for politicians to express views on a wide range of social values in ways that often are more acceptable in political discourse than would be the case if these same ideas were expressed in a freestanding way. This includes views about when people should have babies and who should do so, as well as attitudes towards work, wages, school attendance, and family responsibility. There is a "welfare-speak." Politicians at all levels of government use the welfare debate as a context for telling their constituents how they feel about sensitive and basic social values. For two decades, national, state, and local politicians have been ratcheting up the rhetoric of welfare, reflecting a shift to conservative views towards the AFDC population. This shift, however, has not penetrated to the point of causing deep change in the management systems of the state and local agencies and nonprofit organizations that carry out welfare policies.

The New Signals

Two types of behavioral change are sought now. One involves the behavior of *individuals* (parenting family heads) who are or could become welfare applicants or recipients. The other involves the behavior of welfare *bureaucracies*. The new signals for welfare change pre-date the 1996 Personal Responsibility Act. Their origins are found in federal and state laws enacted in the 1970s and 1980s and in presidential waivers approved under Reagan, Bush, and Clinton that allowed states to experiment with stronger approaches to welfare and work.

Research by the Rockefeller Institute of Government underway in twenty-one states (representing 70% of the national caseload) focuses on the *capacity* of state governments to create and administer welfare management systems that transmit these new signals and support the values that underlie them. Our premise is simple: Before welfare laws can affect work, reproduction, and family life and well-being, they must first infuse the governance systems responsible for delivering welfare benefits and services. This latter accomplishment is anything but certain. These systems are often vast and complex. They extend to multiple levels of government and span many agency jurisdictions. Powers are often dispersed in vague and shifting ways between the public and private sectors. And within the private sector, there are important divisions in the roles of the profit and nonprofit sectors, religious and secular organizations, professional organizations, and community-based agencies.

Other Devolutionary Effects

In addition to changed national signals about work and family behavior and the push to assign more power and responsibility to the states, two other federalism dimensions of the Personal Responsibility Act must be

The State Capacity Study

The State Capacity Study is a multi-year research project on state management systems for welfare, Medicaid, and workforce development programs. By assessing rapidly changing management systems in a large sample of states, researchers will learn what goals state leaders intend to achieve in their social programs and develop practical recommendations regarding the strengths and weaknesses of different management strategies.

The project includes two major rounds of intensive field research in 21 states with each state study led by a research director, usually a scholar who works in the state and has extensive knowledge of the state's programs and administrative systems. The states in the field sample are Arizona, California, Florida, Georgia, Kansas, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Rhode Island, Tennessee, Texas, Utah, Washington, West Virginia, and Wisconsin.

The research will yield major reports and *Management Briefs* on state management systems beginning in 1998. This report, *The Newest New Federalism for Welfare*, is part of a series of *Rockefeller Reports* designed to assist policy makers in assessing important welfare implementation issues now. The first issue, released in August, covered the decline in welfare caseloads. Forthcoming for November is a report on information systems and welfare reform. Other topics include: privatization, the effects of welfare reform on the nonprofit sector, and strategies for changing the culture of local welfare agencies.

The State Capacity Study is funded by grants from the W. K. Kellogg Foundation, the Edna McConnell Clark Foundation, St. Luke's Charitable Health Trust, the Flinn Foundation, the Gund Foundation, the Fund for New Jersey, and the Schumann Fund for New Jersey. In addition, the U.S. Department of Health and Human Services has recently awarded the Institute a grant for a "Front-Line Management and Practice Study" in 12 local sites which is tied to and builds on the work of the State Capacity Study.

Richard P. Nathan is principal investigator of the State Capacity study, director of the Rockefeller Institute of Government, and provost of the Rockefeller College at the University at Albany. Thomas L. Gais is the study's project director and is a political scientist who has written extensively on political reform. *For more information:* E-mail: fedgroup@rockinst.org; Telephone: (518) 443-5844; fax: (518) 443-5823.

addressed: (1) the role of local governments, and (2) the role of nonprofit and for-profit service providers that contract with state and local governments to carry out employment and related social policies. In both areas, our analysis to date reveals developments that readers may find surprising.

- ***"Second-order devolution."*** **In the twentieth century, the state role in the field of welfare policy increased and correspondingly the local role diminished. The surprising new development is a reversal of this pattern. There is now a strong move to a "second-order devolution," by which we mean states assigning greater responsibilities to local governments, mainly counties.**

- ***"Nonprofitization"*** **— There is not only a devolution of power and responsibility for welfare programs to local government, but also a corresponding and in fact longer standing devolution movement whereby state and local governments have assigned increased levels of responsibility to nonprofit organization groups. It is not so much "privatization" that has taken place in social policy, as "nonprofitization," although increased contracting with private providers has also been emphasized, especially recently.**

This *Rockefeller Report* also deals with the oversight role of the federal government, specifically the degree to which and the way in which it should implement national welfare policies.

- ***Washington's new role*** **— At the same time that more detailed welfare policy goals are being written into both federal and state laws, important changes are taking place in terms of what the national government is supposed to do. Now the federal oversight role is**

supposed to focus on results, with states being given new freedom to achieve these results in different ways and with their performance subject to federal oversight. This new performance-monitoring theory raises profound federalism issues.

"Second-Order Devolution" to Localities

Prior to the New Deal, programs to aid the poor were primarily structured, funded, and administered by local governments and charities. In many cases, this role was carried out (to the extent it was carried out at all) by towns going back to the country's Colonial history. Later, county governments took on this role in the states in which counties are important units of local government, which are most states. The New Deal not only represented a turning point with the national government taking a more activist role the planning and financing of social services to aid the poor, it also brought a rise in the role of state governments in this field. One of the surprising things about the present moment is that not only is federal-to-state devolution occurring, but there are also indications of a parallel trend of state-to-local devolution.

One might be skeptical of this finding. By law, states have over the years assumed increasing responsibility for welfare. Thirty-five states now have what are called "state-administered" welfare systems. The remaining states (including some very big ones, i.e., California and New York) have so called "state-supervised/county administered" systems. The latter arrangement is one in which states set policy goals, prescribe administrative arrangements, and provide funds, but the basic legal responsibility is lodged at the county level. The direction of change over the past forty years has been for states to shift from state-supervised to state-administered systems, resulting in greater centralization at the state level.

One of the surprising things about the present moment is that not only is federal-to-state devolution occurring, but there are also indications of a parallel trend of state-to-local devolution.

Nonetheless, there are early indications from our field research that states, including those with state administered AFDC systems, are now devolving more decision making for welfare back to local governments and groups. This "second-order devolution" is particularly visible in service areas, which is logical. For example, a number of states (Michigan, Texas, Maryland, North Carolina, California, Iowa) have assigned job-finding services to local entities, even when the administrative structure for assistance-payment functions is centralized at the state level. Almost all states now have a "Job First" or "Work First" component of their welfare system, many of which were created under federal waivers and state policy decisions that pre-date the Personal Responsibility Act. In fact, one of the easiest ways to understand what is happening now is to observe that the increased federal hype and strong rhetoric about work and ending welfare "as we know it" have pushed states and localities to implement the 1988 national welfare reform law, called the Family Support Act. The Family Support Act also stressed work and family self-support. Many states passed laws and set policies throughout the 1980s and up to 1996 with these purposes; increasingly, the emphasis has been on job placement as step one in the welfare application process. But, despite laws and pronouncements about putting "work first" for welfare applicants, change came slowly. Now it is occurring rapidly. Job placement services, along with related services such as child care and transportation, are the main arenas for "second-order devolution." Local welfare systems are increasingly pursuing "work first" strategies.

Contractual Devolution

Part and parcel of second-order devolution in the welfare field is for state and local governments to hand off program responsibilities to nonprofit and for-profit organizations under contracts. This has been going on for a long time and is now accelerating. Nonprofit and private groups provide services like job placement, job counseling, job training, child care, and family health (including child health and family planning). Under the Personal Responsibility Act, "nonprofitization" and privatization are being stepped up.

Reporting Requirements and Needs

The House Ways and Means Committee Print summarizing the welfare reforms in the Personal Responsibility Act stresses flexibility for the states. The Committee Print states that the purpose of the cash welfare block grants "is to increase State flexibility in providing assistance to needy families so that children may be cared for at home; end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; prevent and reduce the incidence of out-of-wedlock pregnancies; and encourage the formation and maintenance of two-parent families."

The management theory for welfare embedded in the law is that the law sets goals, with penalties for nonperformance and bonuses for exemplary performance, and requires states to provide data showing that they achieved these goals. Unlike the predecessor Aid to Families With Dependent Children (AFDC) program, the law does not set process requirements for how states should organize and administer the new Temporary Assistance for Needy Families (TANF) block grant, but rather relies on them to demonstrate performance.

One can identify three types of data that would demonstrate performance: (1) *characteristics data* on who is on the roll; (2) *tracking data* on participation in cash assistance and services as well as compliance with time limits and other requirements; (3) *outcome data*, particularly involving information about people *after* they leave the rolls and people who might be eligible but do not come on the rolls for reasons discussed below (sanctioning and "diversion" activities).

Section 411 requires quarterly case record reports. The law allows states to provide these data on a sampling basis, although current interpretations suggest that this would require monthly data and raise substantial questions about both the political and operational feasibility of the sampling methodology. These data requirements focus on the characteristics of the caseload and the implementation of time limits and work requirements. The regulations as to how states should fulfill these requirements are already the subject of intense discussion between federal and state officials. To date, preliminary regulations have not been issued for public comment. At best, it will be six months to a year before the questions raised by these requirements are resolved.

An important dimension of outcome data that has been largely neglected by all but a few states, which are now developing such plans, concerns tracking individuals on the perimeter of the welfare system. The legislation calls on states to "study and analyze outcome measures by evaluating the success in moving individuals out of the welfare system." [Section 107] The aim here is to determine if such outcome measures should be applied on a national or state-by-state basis. This section reflects a concern about, and a need for, data that goes beyond the current TANF caseload. These data would track what happens to recipients *after* they leave the rolls, what happens to people who are eligible but sanctioned, and what happens to people who are "diverted" from cash assistance by various strategies states are now adopting to prevent people from needing cash assistance or coming on the rolls at all.

The downward push of policy and program responsibility is understandable. The strong aim now is to help people get off the dole or never get on. The new federal law, which has stepped up the pressure to implement these and other behavior-modification goals, envisions a hard-to-achieve balancing of services and sanctions as embodied in the Personal Responsibility Act. This approach to changing personal and family behavior needs to be juxtaposed to the so-called "income strategy." The income strategy, which was dominant in the 1970s, and sought to increase work participation by providing direct monetary incentives in welfare payment systems, was largely driven by labor economists.

The shift to a service and sanctioning strategy for behavioral change inexorably pushes decision-making downward. *This is because so much of what needs to be done to get and keep a person off of welfare has to be decided, arranged, and carried out locally.* The biggest increase in discretion under the new regime for welfare policy, capped as it is by the Personal Responsibility Act, occurs at the *point of contact* between local workers in welfare systems and the individual applicant or recipient. In past periods, the idea that such discretion should be assigned to local welfare workers was resisted. Reformers complained about the often-harsh treatment of local agencies in places where poor people were treated badly, sometimes simply

given bus money. However, if the kind of behavioral fine tuning envisioned in the Personal Responsibility Act is to be achieved, there is no way to avoid assigning major responsibility to on-the-ground case managers.

It is in this context that the Rockefeller Institute's management research focuses on the ground level and stresses the application of information technology to social policy. The key to behavioral change for poor families may well turn out to be the kinds of linked on-line management information systems (MIS) that are now second nature to airlines, banks, fast-food restaurants and other public and private systems that involve multiple and fast-changing transactions. National policy, including regulations (yet to be promulgated) for reporting requirements under the Personal Responsibility Act, is currently unsettled. These decisions are crucially important.

The Federal Role

In the nineteenth century, the idea that the national government should aid the poor was not only unpopular, it was downright illegal. Franklin Roosevelt changed this in a big way. Still, in the most controversial welfare areas the national government never took full control as it did with Social Security retirement benefits and Medicare. For the non-disabled, non-aged, poor population, the federal government provides policy direction and administrative requirements under conditional grants-in-aid. Theoretically, if the states don't play ball, they don't get their federal money. But theory and practice diverge. The federal government is not good at penalizing states by taking grant-in-aid money away even though officials often threaten to do so.

Along comes TANF. Not only does it set new behavioral goals and stipulate how sanctions should be administered and financial penalties levied if these behavioral goals are not achieved, it provides bonus money if states do a good job in carrying out purposes like reducing illegitimacy and cutting welfare dependency.

But between cup and lip is a long distance. The availability of technology to manage and monitor performance is not the problem: *The problem is to buy it, install it, program it, coordinate it, and **use it***. Unfortunately, social programs have been at the end of the queue when it comes to applying technology. However, we see management information systems as the spinal column of welfare modernization. It is a critical instrument if the country is serious about shifting from a regulatory mode to a performance approach in this field of public policy. Preliminary data from our field researchers show that states face huge challenges to provide the information needed for case management and caseload tracking for their welfare systems.

The availability of technology to manage and monitor performance is not the problem: The problem is to buy it, install it, program it, coordinate it, and *use it*.

There are basically three options for the federal government's oversight role in this area:

1. *Prescriptive:* Spell out reporting requirements that are detailed, specific and comprehensive.
2. *Devolutionary:* Pull back and let the states decide how to report on their programs.
3. *Middle Ground:* Have the federal government play a leadership, clearing-house and catalytic role.

The challenge to the federal government is how to reconcile devolution and accountability. What is needed is a "*performance partnership.*" We urge the invention of a middle-ground position for the federal government with respect to the development and operation of information systems — an approach that is both facilitative and catalytic. The federal role should be to help states design, establish, and use information systems for welfare case management that reflect their goals and conditions and that take advantage of knowledge about best practices from all over the country. There should be as much comparability as possible, but not so much as to produce rigid uniformity. For if that's what the feds do (i.e., rigidly specify all reporting

elements) this would constitute a centralizing role inconsistent with the devolutionary purposes of the Personal Responsibility Act. Information is power. Responsibility for tracking the programs and results of welfare systems should be a shared federal-state responsibility, not something dictated from Washington. I believe this challenge to build welfare management information systems is the key to what welfare reform really becomes. There is a better way for the federal government to lead and help the states in this area that more than anything else, is likely to shape the future and basic character of American social programs.

Richard P. Nathan is director of the Rockefeller Institute of Government, the public policy research arm of the State University of New York. From 1971 to 1972, he served as deputy undersecretary of the U.S. Department of Health, Education, and Welfare and directed planning for the implementation of the welfare reform legislation debated, but not enacted, in this period.

***The Nelson A. Rockefeller Institute of Government**, the public policy research arm of the State University of New York, was established in 1982 to bring the resources of the 64-campus SUNY system to bear on public policy issues. The Institute is active nationally in research on the role of state governments in American federalism and the management and finances of state and local governments in major areas of domestic public affairs.*

Future Reports

This is the second *Rockefeller Report* on the Institute's State Capacity study. The next report by Terrence Maxwell will present more detailed information on the reporting requirements for the implementation of the 1996 national welfare reform law and discuss the challenges involved in creating new welfare management information systems.

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